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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,958	01/28/2002	Edward R. diGirolamo	4782-022	4628

24112 7590 11/02/2004

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RALEIGH, NC 27602

EXAMINER
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HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/058,958	<b>Applicant(s)</b> DIGIROLAMO ET AL. 	
	<b>Examiner</b> Yvonne M. Horton	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-21,23-25 and 27-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-35 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,12,13,16-19,24,25 and 30 is/are rejected.
- 7) ☒ Claim(s) 11,14,15,20,21,23 and 27-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>see the attached exhibit</u> .         |

## **DETAILED ACTION**

### ***Withdrawal of Allowable Subject Matter***

The indicated allowability of claims 6,8,10,12 and 19 is withdrawn in view of a more careful analysis of the reference(s) to SOULE'. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,2,4-10,12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #2,126,511 to SOULE'. SOULE' discloses a wall structure including a pair of opposed members (11,13,14) having a plurality of studs (12) spaced therebetween; wherein the studs (12) have openings (page 1, column 2, lines 25-30) therein for receipt of diagonal members (15,16) therethrough. Regarding claim 2, the wall structure includes corner areas (COA) wherein the diagonal members (15,16) are connected therebetween, see the marked attachment. In reference to claims 4 and 5, the diagonal members (15,16) are elongate rods connected between the corner areas (COA), page 2, column 1, line 9. Regarding claim 6, there are four corner areas (COA) and a pair of diagonal rods (15,16) that extend through the openings. In reference to claim 7, the wall structure further includes a pair of opposing sides (S); however, with only one being shown, and a central area (CEA) wherein the diagonal member (15,16)

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extends through the central area (CEA), see the marked attachment. In reference to claim 8, the diagonal braces (15,16) consist of a pair of braces that extend through the openings (page 1, column 2, lines 25-30). Regarding claim 9, the corner areas (COA) are opposed corner areas (COA) and the diagonal members (15,16) are connected thereto by connectors (17). Regarding claims 10 and 12, the brace (15,16) is connected to the connector (17) so as to be in tension through the nut member (21), page 2, column 1, lines 50-61, essentially at all times. In reference to claim 13, the connectors (17) are anchored between a stud (12) and one of the opposed members (11,13,14).

Claims 16-19 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #2,126,511 to SOULE'. SOULE' discloses a wall structure including upper members (13), lower members (11), a plurality of studs (12) spaced therebetween; wherein the studs (12) have openings (page 1, column 2, lines 25-30) therein for receipt of diagonal members (15,16) therethrough and a pair of connectors (17), secured to opposed corner areas (COA), see the marked attachment. In reference to claims 17 and 18, the diagonal members (15,16) are elongate rigid shaft members. Regarding claim 19, the shaft members (15,16) includes opposed threaded ends (30), page 1, column 1, line 43, such that each shaft (15,16) projects through an opening (20) formed within the connector (17) and is securely retained by a retainer (21). In reference to claim 24, the wall structure further includes side members (S) and a central area (CEA) wherein the diagonal members (15,16) extending through the central area (CEA), see the marked attachment.

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #2,126,511 to SOULE'. SOULE' discloses a wall structure including a pair of opposed member (S), a series of spaced studs (12) each having openings (page 1, column 2, lines 25-30) for receipt of a diagonal member (15,16) extending therethrough and being connected between corner areas (COA) by connectors (17).

Claim 30 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #2,126,511 to SOULE'. SOULE' discloses the use of a wall structure including upper members (13), lower members (11), a plurality of studs (12) spaced therebetween; wherein the studs (12) have openings (page 1, column 2, lines 25-30) therein for receipt of diagonal members (15,16) therethrough and a pair of connectors (17), secured to opposed corner areas (COA), see the marked attachment. The connectors (17) are anchored between a stud (12) and one of the opposed members (11,13,14); wherein the diagonal members or shafts (15,16) include threaded ends (30) page 1, column 1, line 43, such that each shaft (15,16) projects through an opening (20) formed within the connector (17) and is securely retained by a retainer (21).

***Allowable Subject Matter***

Claims 11,14,15,20,21,23,27,28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 31-35 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 1,2,4-10,12,13,16-19,24,25 and 30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

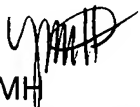
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
YMH  
October 26, 2004

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600

EXHIBIT

Aug. 9, 1938.

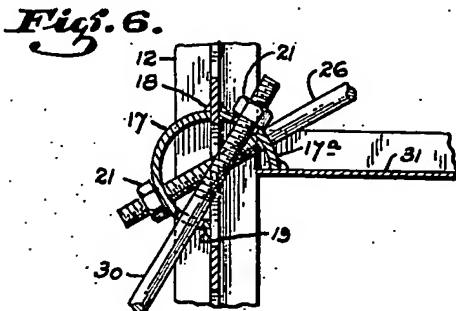
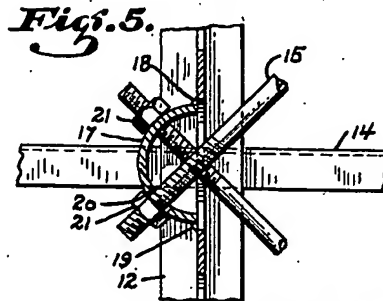
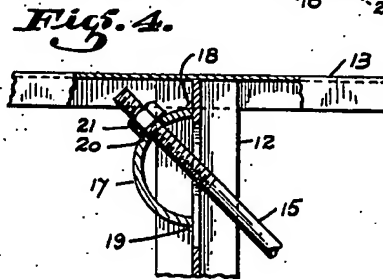
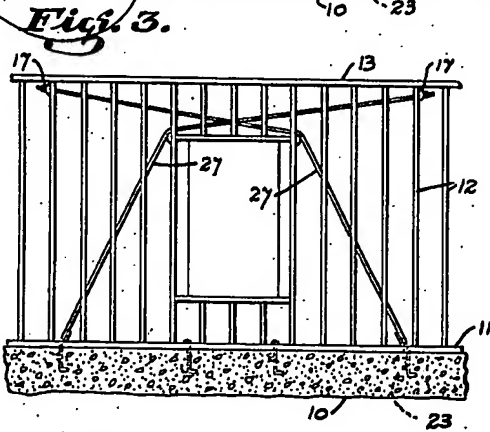
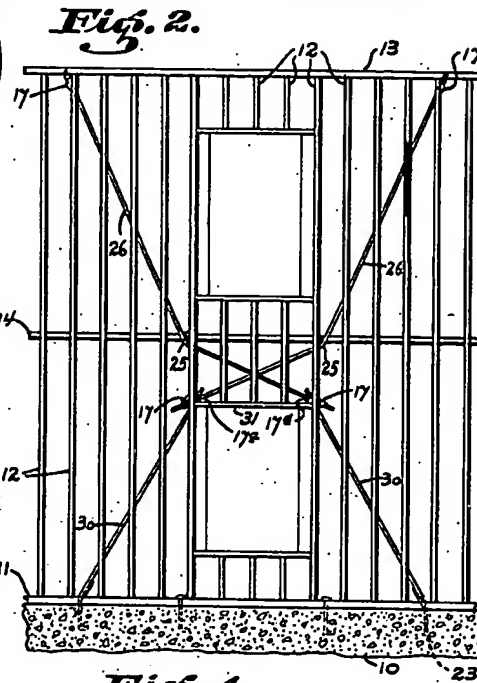
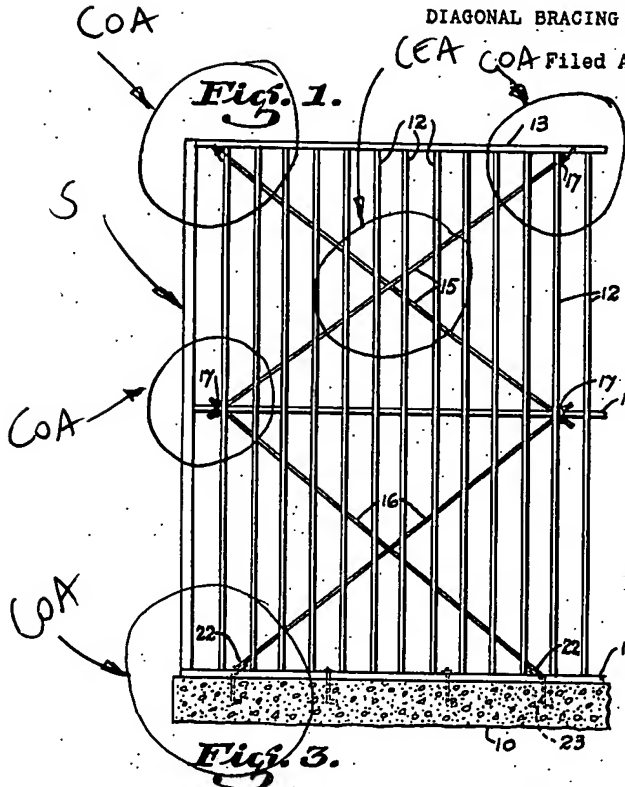
E. L. SOULÉ

2,126,511

DIAGONAL BRACING FOR METALLIC STRUCTURES

Filed April 18, 1936

2 Sheets-Sheet 1



INVENTOR.  
Edward L. Soule

BY

Chas. E. Townsend  
ATTORNEY.